

ZONING BY-LAW REVIEW COMMITTEE

COMMONLY ASKED QUESTIONS WITH ANSWERS

FOXBOROUGH TOWN MEETING DECEMBER 14, 2009 ZONING BY-LAW REVISIONS

1. *Why are the Zoning By-Laws being revised? Why are there five Warrant Articles?*

The current By-Laws were adopted in 1991, and have been amended several times since. The By-Laws are being revised to correct contradictions and inconsistencies that inadvertently have resulted from adoption of such amendments; to address specific issues that have come before the Planning Board, the Zoning Board of Appeals, the Town Planner and the Building Commissioner; to account for changed circumstances in the nature and character of the Town of Foxborough since 1991; and to recognize recent judicial decisions.

Warrant Article 6 recodifies and completely replaces the current By-Laws. It makes no substantive changes to the By-Laws. Instead, this Warrant Article rearranges the By-Laws in a more logical and orderly manner; corrects typographical, spelling and punctuation errors; replaces abbreviations with complete words; re-words unclear statements to achieve clarity; ensures consistency of terms and references; and references Massachusetts statutes rather than repeat statutory wording. The result is a document that though lengthy, detailed and complex, is clearer, more understandable, and easier to follow and use.

The remaining four Warrant Articles make substantive changes to the By-Laws. Because these Warrant Articles will add new provisions to the By-Laws, it was determined that each would best be understood and considered separately.

2. *Will this change my ability to develop vacant land that I own?*

The revised By-Laws will not affect the ability to develop any vacant land that you own. However, as is the case with the current By-Laws, any development cannot commence unless you have obtained required permits and been granted any Variances and Special Permits that may be applicable.

3. *Are the dimensional requirements in the current By-Laws being changed?*

No. The revised By-Laws renumber the dimensional provisions that are in the current By-Laws. However, there is no change to area, frontage, setback, height or any other of the dimensional requirements that are in the current By-Laws.

4. *I want to construct an addition to my home. I have sufficient distance between the lot line and my house. I understand that I only need a building permit for the new construction. Will the revisions change my ability to construct the addition?*

A building permit issued by Foxborough's Building Commissioner must be obtained before you can begin construction of the addition to your house. The revised By-Laws do not affect your ability to obtain a building permit.

5. *My house is in the R-40 District on a lot that is 20,000 square feet. The lot was developed before the current By-Laws took effect, so it is protected from dimensional requirements as a pre-existing non-conforming use. Will I lose that protection under the new By-Laws?*

The revised By-Laws will not affect the pre-existing non-conforming status that you have under the current By-Laws. As stated above, the revised By-Laws will not change any of the dimensional requirements that are in the current By-Laws. This includes the requirement that houses in the R-40 district be constructed on lots that are 40,000 square feet in area. A house such as yours that was constructed on a 20,000 square foot lot prior to the date on which the current By-Laws took effect is protected as a pre-existing non-conforming use. This means that though your house does not conform with the dimensional requirements of the current By-Laws, it does not violate the current By-Laws. This status will continue under the revised By-Laws.

6. *I want to start a home occupation that is permitted under the current By-Laws. Will I be able to do that under the revised By-Laws?*

The revised By-Laws do not eliminate any of the home occupations that are listed in the current By-Laws, and do not change the criteria that are a condition for approval of a proposed home occupation and issuance of a Special Permit by the Zoning Board of Appeals. What is being changed is that the revised By-Laws will have two categories of home occupations. The first category is "Home Occupation; Intensive." The definition of this category in the revised By-Laws is the same as the definition of Home Occupation in the current By-Laws. The second category is "Home Occupation; Nonintensive." This category is added in Warrant Article 10 which both defines and sets forth the standards for a use that is considered a nonintensive home occupation. When these standards are satisfied, a nonintensive home occupation can be conducted as a matter of right (that is, no Special Permit is required) within the R-15, R-40, GB and NB Zoning Districts. This new use among other things recognizes the various types of home-based

occupations that have increased in recent years by reason of technological developments.

7. *Will the procedures and requirements for obtaining a variance or special permit change?*

Procedures and requirements for obtaining a variance or a special permit have not been changed – they will be the same under the revised By-laws as they are under the current By-Laws.

8. *Warrant Article 7 adds ten new definitions to the By-Laws. Why is it necessary to add these definitions?*

The definitions that are added to the By-Laws by Warrant Article 7 are of property uses that currently are permitted in Foxborough but that are not explicitly defined. Defining these terms adds clarity to the By-Laws and avoids possible confusion and inconsistency.

9. *Warrant Article 8 proposes seven new uses and definitions. Why are they being proposed? How do they affect me?*

This Warrant Article recognizes uses that have become more prevalent in current society. Use variances are not permitted under Foxborough's Zoning By-Laws, whether the current or the revised By-Laws. This means that a specific use of property is prohibited unless it explicitly is permitted in the By-Laws by right or by Special Permit. The seven uses that are the subject of this Warrant Article will be authorized under the revised By-Laws within the zoning districts indicated.

10. *Warrant Article 9 revises the standards for accessory apartments. What are the changes? Will it be more difficult for me to have an accessory apartment?*

The current By-Laws do not adequately address requirements for accessory apartments as a separate use; instead, the restrictive standards for conversion of a single family residence are used by the Planning Board in its consideration of an application to add an accessory apartment to a single family home. This Warrant Article clarifies the permitting process for an accessory apartment by defining an accessory apartment as a second dwelling unit in a single-family dwelling, and setting forth the standards required for authorization of a Special Permit to add an accessory apartment to any such dwelling.

11. *I understand that there was to be a Warrant Article proposing changes to the S-1 District? Why isn't that article on the Town Meeting Warrant? What revisions were initially proposed?*

The Zoning By-Law Review Committee initially proposed that the S-1 District Zoning By-Law be revised in order to promote appropriate economic growth in the S-1 District. The Warrant Article that was proposed lessened the By-Law dimensional requirements that in the past have inhibited development of this district's remaining undeveloped properties. However, because available time and financial resources currently are not available to adequately study the impact of these revisions to the Town, the Zoning By-Law Review Committee voted to recommend to the Board of Selectmen, the Planning Board and the Advisory Committee that "no action" be taken at Town Meeting concerning this matter. The Board of Selectmen voted on the basis of this recommendation to delete this article from the Town Meeting Warrant.

12. *I would like to compare the current By-Laws to the proposed new By-Laws. How am I able to do so?*

A chart that compares the current By-Laws with the proposed new By-Laws is attached. This chart also can be found on the Town's website at <http://www.townfoxborough.us> under the Zoning By-Law Review Committee's "folder."

OLD vs NEW CHART

This table compares Foxboro's existing Zoning By-Law (Old Section Number heading present Bylaw) to that presented in the Zoning By-Law Review Committee's -proposed revised Zoning Bylaw Article (New Section Number heading). Comments are provided to help guide the reader of the proposed article. In addition numerous typos, spelling errors, punctuation error correction were made throughout. This is a good tool to use when comparing the current bylaw to what is being proposed.

This table was prepared by our consultant Mark Bobrowski as the result of a selectman's request on 7/14/09.

OLD SECTION NUMBER	NEW SECTION NUMBER	COMMENTS
1.00 Purpose	1.1 Purpose	No substantive change – language modernized.
1.01 Regulations	1.2 Authority 1.3 Scope	No substantive change – language added citing authority for local regulation and defining the scope of such regulation.
2.00 Definitions	11.0 Definitions	Several definitions clarified and new definitions added as per other articles on the warrant.
3.00 Districts	2.0 Districts	No new districts created. Language defining district purposes deleted to simplify section. Sections 3.01 and 3.02 simply renumbered..
4.00 Use Regulations	3.0 Use Regulations	Use table key simplified. New uses added as per other articles on the warrant.
5.00 Dimensional and Density Regulations	4.0 Dimensional Requirements	Dimensional requirements simply renumbered. No change to area, frontage, yard or height regulations.

6.00 Screening, Buffers and Landscaping	6.3 Screening, Buffers and Landscaping	Renumbered only.
7.00 Parking and Loading	6.1 Parking and Loading	Renumbered only. Tables created for parking requirements.
9.00 S-1 District	9.1 S-1 District	Renumbered only.
9.01 Site Plan Review	10.5 Site Plan Review	Renumbered. Lapse, fee, and appeal provisions added.
9.02 Design Review District	9.2 Design Review District	Renumbered only.
9.03 Environmental Impact Statement	10.6 Environmental Impact Statement	Renumbered only.
9.04 Flood Plain District	9.3 Flood Plain Overlay District	Renumbered only.
9.05 Residential Compounds	8.3 Residential Compounds	Renumbered only.
9.06 Open Space Residential Devel.	8.4 Open Space Residential Devel.	Renumbered only.
9.07 Planned Development	8.5 Planned Development	Renumbered only.
9.08 Municipal Conversion	7.1 Municipal Conversion	Renumbered only.
9.09 Water Resource Protection District	9.4 water Resource Protection Overlay District	Renumbered only.
9.10 Single Family Conversion	8.1 Single Family Conversion	Renumbered only.
9.11 Wireless Communications Facilities	7.2 Wireless Communications Facilities	Renumbered only.
9.12 Adult Uses	7.3 Adult Uses	Renumbered only.
9.13 Economic Development District	9.5 Economic Development Overlay District	Renumbered only.
9.14 Chestnut-Payson Overlay District	9.6 Chestnut-Payson Overlay District	Renumbered only.

10.00 Applicability	1.4 Applicability	Language modernized – statutory references added.
10.01 Nonconforming Uses and Structures	5.0 Nonconforming Uses and Structures	Section modernized to comport with case law. Provisions added with regard to demolition and reconstruction.
10.02 Abandonment	5.5 Abandonment or Non-Use	No substantive change.
10.03 Exemptions	None	Deleted
10.04 Freeze	None	Deleted
11.00 Zoning Enforcement Officer	10.1 Zoning Enforcement	Language modernized – no substantive change.
11.01 Zoning Board of Appeals	10.2 Board of Appeals	Statutory provisions deleted to simplify by-law. No substantive change.
11.02 Public Hearing	None	Deleted – repeats statute unnecessarily.
11.03 Variances	10.2.2	Merged into ZBA powers.
11.04 Appeals	None	Deleted – repeats statute unnecessarily.
11.05 and 11.06 Special Permits and 11.07 Governing Procedures	10.4 Special Permits	Sections merged, eliminating distinction between “special permit” and “special use permit.” Criteria for decision-making clarified. Repetition of statutory procedures deleted.
11.08 Constructive Grant	None	Deleted – repeats statute unnecessarily.
11.09 Repetitive Petition	10.7 Repetitive Petition	Renumbered only.
11.10 Appeals	None	Deleted – repeats statute unnecessarily.
11.11 Fines	10.14	Renumbered only.
12.00 and 12.01 Amendments	1.6 Amendments	Renumbered only.
12.02 Effective Date	1.7 Effective Date	Renumbered only.
12.03 Validity	1.8 Separability	Renumbered only.